

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harold Rodriguez	Team: Squad #3	CCRB Case #: 201508962	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/17/2015 2:00 PM	Location of Incident: § 87(2)(b)	Precinct: 34	18 Mo. SOL 4/17/2017	EO SOL 4/17/2017	
Date/Time CV Reported Tue, 10/20/2015 7:37 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 10/20/2015 7:37 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Cristian Duran	27567	938412	034 PCT
2. POF Nelly Vega	12512	953523	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Nelly Vega	Force: PO Nelly Vega used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Cristian Duran	Force: PO Cristian Duran used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Cristian Duran	Force: PO Cristian Duran restricted § 87(2)(b)'s breathing.	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed the following complaint on behalf of her daughter § 87(2)(b) who was 14 years old at the time of the incident, via telephone with the CCRB on October 20, 2015.

On October 17, 2015 at approximately 2:00 p.m., § 87(2)(b) returned to § 87(2)(b) § 87(2)(b) in Manhattan after being missing for three days. § 87(2)(b) called for police to take § 87(2)(b) to an ACS location as instructed by family court because § 87(2)(b) had a PINS (Person In Need of Supervision) warrant. PO Cristian Duran and PO Nelly Vega of the 34th Precinct arrived and told § 87(2)(b) to go with them. § 87(2)(b) refused and both officers grabbed her arms to handcuff her (**Allegation A and B**). § 87(2)(b) resisted and spit on both officers' faces. PO Duran allegedly grabbed a pair of jeans and forcefully placed them in § 87(2)(b)'s face and restricted her breathing (**Allegation C**). § 87(2)(b) was transported to § 87(2)(b) by an ambulance.

There is no video footage associated with this case.

This case is over 90 days due to § 87(2)(b) being uncooperative with allowing § 87(2)(b) and § 87(2)(b) speak to the CCRB.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation and wanted the subject officer disciplined.
- An updated request was sent to the comptroller's office on January 15, 2016 for any Notice of Claim by § 87(2)(b). It will be added to the case file upon receipt.
- § 87(2)(b) and § 87(2)(b) have no criminal convictions.

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) with the CCRB (BR 01).

Potential Issues

- § 87(2)(b) refused to provide additional contact information for § 87(2)(b) and her § 87(2)(b) old son who witnessed the incident, § 87(2)(b) and wanted all calls to go through her. § 87(2)(b) did not cooperate with letting the undersigned investigator speak with her children. She stated that § 87(2)(b) moved to § 87(2)(b) and she did not want her to provide a statement. Five calls were made to § 87(2)(b) to speak with § 87(2)(b) and she was told to have him call back when he was home. § 87(2)(b) never called the CCRB to provide a statement.

Allegations Not Pleaded

§ 87(2)(b) stated that she went to the 34th Precinct stationhouse on a day she was not sure of and tried to file a complaint against PO Duran and PO Vega. She alleged that the officers at the stationhouse did not want to take her complaint. During her statement she stated that multiple officers listened to her account of the incident and tried to help her but she felt like they did not care. She then spoke to an officer that provided her with the number to the CCRB and § 87(2)(b) stated that she was satisfied with that. Therefore a refusal to process civilian complaint allegation was not pleaded.

Findings and Recommendations

Allegation A – Force: PO Cristian Duran used physical force on § 87(2)(b)
Allegation B – Force: PO Nelly Vega used physical force on § 87(2)(b)
Allegation C – Force: PO Cristian Duran restricted § 87(2)(b) s breathing.

§ 87(2)(b) stated that PO Duran and PO Vega spent 10-20 minutes telling § 87(2)(b) to stand up from the recliner and she ignored them. PO Duran and PO Vega tried to handcuff § 87(2)(b) to remove her to a hospital and § 87(2)(b) tucked her arms underneath her body to prevent them from grabbing her arms. She alleged that PO Vega got on top of the recliner and tried to handcuff § 87(2)(b) but she could not describe how. § 87(2)(b) then spit several times in all directions which caused PO Duran to grab a nearby pair of jeans and put them up to § 87(2)(b) s face. § 87(2)(b) stated that PO Duran forcefully pushed the pants into § 87(2)(b) s face and restricted her breathing. § 87(2)(b) stated that she tried to move PO Duran's hand and she could not. § 87(2)(b) screamed that she could not breathe and PO Duran held the pants on her face for 5-6 minutes. § 87(2)(b) was eventually handcuffed but § 87(2)(b) did not recall how. § 87(2)(b) went limp and threw herself to the floor. § 87(2)(b) stated that § 87(2)(b) was not injured during the incident.

§ 87(2)(b) statement was consistent with § 87(2)(b) but she stated that PO Duran used a towel and could not recall how long he held it. She did not recall if it was forceful and did not recall if § 87(2)(b) screamed that she could not breathe.

PO Duran and PO Vega were consistent with § 87(2)(b) and § 87(2)(b). The officers decided to take § 87(2)(b) to the hospital due to statements made by § 87(2)(b) and § 87(2)(b) about her being bipolar and having a history of suicide attempts. PO Duran and PO Vega tried to grab § 87(2)(b) s arms but she kept them tucked under her body. She flailed her arms and spit on both officers. PO Duran stated that he put a piece of clothing up to § 87(2)(b) s face to prevent her from spitting on them. PO Duran and PO Vega stated that PO Duran did not push the piece of clothing forcefully onto § 87(2)(b) s face. PO Duran stated that § 87(2)(b) did not scream that she could not breathe and PO Vega stated that § 87(2)(b) was the one screaming that § 87(2)(b) could not breathe. PO Vega assured her that § 87(2)(b) was fine and that she could breathe because she was screaming.

Patrol Guide Procedure 216-05 states that mentally ill or emotionally disturbed persons must be taken into protective custody if the person is acting in a manner likely to result in a serious injury to themselves or others. Additionally, officers may use any force necessary to restrain the individual until they can be taken to a hospital (BR 03).

Patrol Guide Procedure 203-11 also states that an officer may use the minimum amount of force required to take a mentally ill or emotionally disturbed person into custody (BR 04).

§ 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date